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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/405, 210	09/24/99	MARCHANT	B 18865-32US

020350 MMC2/0313  
TOWNSEND AND TOWNSEND AND CREW  
TWO EMBARCADERO CENTER  
EIGHTH FLOOR  
SAN FRANCISCO CA 94111-3834



EXAMINER

VU, D

ART UNIT	PAPER NUMBER
	2818

DATE MAILED: 03/13/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/405,210	MARCHANT ET AL.
	Examiner DAVID VU	Art Unit 2818

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

**Status**

1) Responsive to communication(s) filed on 24 September 1999.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-17 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-17 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.  
 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved.  
 12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. § 119**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).  
 a) All b) Some \* c) None of the CERTIFIED copies of the priority documents have been:  
 1. received.  
 2. received in Application No. (Series Code / Serial Number) \_\_\_\_\_.  
 3. received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

**Attachment(s)**

15)  Notice of References Cited (PTO-892)  
 16)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 17)  Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3 .  
 18)  Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.  
 19)  Notice of Informal Patent Application (PTO-152)  
 20)  Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-11 and 13-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Applicant's Application Background, pages 1-2 and Fig. 1.

Applicant's Application Background, pages 1-2 and Fig. 1, disclosees a process for manufacturing a trench field effect transistor comprising the steps of:

etching a first trench in a substrate having a first conductivity type;  
lining the first trench with a layer of dielectric material;  
substantially filling the trench with conductive material to form a gate electrode of the field effect transistor;  
implanting impurities of a second conductivity type into the substrate to form a body region having the second conductivity type over the substrate;  
implanting impurities of the first conductivity type inside the body region to form a source region adjacent to the first trench;

etching a second trench through the source region and into the body region;  
and filling the second trench with conductive material for making contact with both the source region and the body region.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 9,11,15,17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's Application Background, pages 1-2 and Fig.1.

Applicant's Application Background, pages 1-2 and Fig.1, discloses all claimed subject matter, but omits the step of etching the second trench etches the second trench deeper than the first trench.

However, the implanting energy, dosage, thickness, depth are considered to involve routine optimization which has been held to be within the level of ordinary skill in the art. As noted in *In re Aller*, the selection of reaction parameters such as energy, dosage, thickness, width and temperature, etc. would have been obvious: "Normally, it is to be expected that a change in energy, concentration, thickness, dosage, temperature, or combination of any of them would be an unpatentable modification. Under some circumstances, however, changes such as these may impart patentability to a process if the particular ranges claimed produce a new and unexpected result which is different in kind and not merely degree from the results of the prior art ... such

ranges are termed "critical ranges and the applicant has the burden of proving such criticality.... More particularly, where the general conditions of a claim are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation." *In re Aller* 105 USPQ233, 255 (CCPA 1955). See also *In re Waite* 77 USPQ 586 (CCPA 1948); *In re Scherl* 70 USPQ 204 (CCPA 1946); *In re Irmscher* 66 USPQ 314 (CCPA 1945); *In re Norman* 66 VSPQ 3 08 (CCPA 1945); *In re Swenson* 56 USPQ 3 72 (CCPA 1942); *In re Sola* 25 USPQ 433 (CCPA 1935); *In re Dreyfus* 24 USPQ 52 (CCPA 1934). Therefore, one of ordinary skill in the requisite art at the time the invention was made would have used any energy, concentration, thickness, depth range suitable to the method in process of Applicant's Application Background, pages 1-2 and Fig. 1, in order to improve the performance of the semiconductor device.

### **Allowable Subject Matter**

3. Claim 12 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### **Response to Arguments.**

4. Applicant's arguments filed 1/22/01 have been fully considered but they are not persuasive.

Applicant argued that Claims 1 and 13 recite a "second trench" which are not "gate trenches". However, Applicant's arguments are not commensurate with what is claimed.

### Conclusion.

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Vu whose telephone number is (703) 305-0391. The examiner can normally be reached on Monday-Friday from 8:00am to 5:00pm. If attempt to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Nelms., can be reached on (703) 308-4910.

David Vu  
DV  
Art Unit 2818



David Nelms  
Supervisory Patent Examiner  
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